

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 961

Introduced by Assembly Member La Suer

February 20, 2003

An act to amend ~~Section 8605~~ *Sections 8802 and 8807* of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 961, as amended, La Suer. ~~Adoption consent—Nonresident petitioners: adoption.~~

Existing law provides that a prospective adoptive parent may file a petition for any agency adoption or an independent adoption of a child in the county in which the petitioner resides, or if the petitioner is a resident of a state other than California, he or she may file a petition for an agency adoption or an independent adoption in the county in which the birth parent or birth parents resided when the relinquishment of parental rights for purpose of adoption was signed, or in the county in which the birth parent or birth parents resided when the adoption placement agreement was signed or the county in which the placing birth parent or birth parents resided when the petition was signed, respectively.

This bill would specify that the nonresident provisions of existing law apply to petitioners who are not residents of the United States.

~~Existing law provides that a child who does have a presumed father, as specified, may not be adopted without the consent of the child's mother, if the child's mother is still living.~~

~~This bill would make nonsubstantive, technical changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 8605 of the Family Code is amended to~~
2 ~~read:~~

3 ~~8605. A child who does not have a presumed father as~~
4 ~~described in Section 7611 may not be adopted without the consent~~
5 ~~of the child's mother, if living.~~

6 *SECTION 1. Section 8802 of the Family Code is amended to*
7 *read:*

8 8802. (a) (1) Any of the following persons who desire to
9 adopt a child may, for that purpose, file a petition in the county in
10 which the petitioner resides or, if the petitioner is not a resident of
11 this state *or of the United States*, in the county in which the placing
12 birth parent or birth parents resided when the adoption placement
13 agreement was signed, or the county in which the placing birth
14 parent or birth parents resided when the petition was filed

15 (A) An adult who is related to the child or the child's half
16 sibling by blood or affinity, including all relatives whose status is
17 preceded by the words "step," "great," "great-great," or
18 "grand," or the spouse of any of these persons, even if the
19 marriage was terminated by death or dissolution.

20 (B) A person named in the will of a deceased parent as an
21 intended adoptive parent where the child has no other parent.

22 (C) A person with whom a child has been placed for adoption.

23 (D) A legal guardian who has been the child's legal guardian
24 for more than one year. However, if the parent nominated the
25 guardian for a purpose other than adoption for a specified time
26 period, or if the guardianship was established pursuant to Section
27 360 of the Welfare and Institutions Code, the guardianship shall
28 have been in existence for not less than three years.

29 (2) If the child has been placed for adoption, a copy of the
30 adoptive placement agreement shall be attached to the petition.
31 The court clerk shall immediately notify the department at
32 Sacramento in writing of the pendency of the proceeding and of
33 any subsequent action taken.

1 (b) The petition shall contain an allegation that the petitioners
2 will file promptly with the department or delegated county
3 adoption agency information required by the department in the
4 investigation of the proposed adoption. The omission of the
5 allegation from a petition does not affect the jurisdiction of the
6 court to proceed or the validity of an adoption order or other order
7 based on the petition.

8 (c) The caption of the adoption petition shall contain the names
9 of the petitioners, but not the child's name. The petition shall state
10 the child's sex and date of birth and the name the child had before
11 adoption.

12 (d) If the child is the subject of a guardianship petition, the
13 adoption petition shall so state and shall include the caption and
14 docket number or have attached a copy of the letters of the
15 guardianship or temporary guardianship. The petitioners shall
16 notify the court of any petition for guardianship or temporary
17 guardianship filed after the adoption petition. The guardianship
18 proceeding shall be consolidated with the adoption proceeding.

19 (e) The order of adoption shall contain the child's adopted
20 name, but not the name the child had before adoption.

21 *SEC. 2. Section 8807 of the Family Code is amended to read:*

22 8807. (a) Except as provided in subdivisions (b) and (c),
23 within 180 days after the filing of the petition, the department or
24 delegated county adoption agency shall investigate the proposed
25 independent adoption and submit to the court a full report of the
26 facts disclosed by its inquiry with a recommendation regarding the
27 granting of the petition.

28 (b) If the investigation establishes that there is a serious
29 question concerning the suitability of the petitioners or the care
30 provided the child or the availability of the consent to adoption, the
31 report shall be filed immediately.

32 (c) In its discretion, the court may allow additional time for the
33 filing of the report, after at least five days' notice to the petitioner
34 or petitioners and an opportunity for the petitioner or petitioners
35 to be heard with respect to the request for additional time.

36 (d) If a petitioner is *not* a resident of ~~a state other than~~
37 California, an updated and current homestudy report, conducted
38 and approved by a licensed adoption agency or other authorized
39 resource in the state *or country* in which the petitioner resides,
40 shall be reviewed and endorsed by the department or delegated

- 1 county adoption agency, if the standards and criteria established
- 2 for a homestudy report in the other state *or country* are
- 3 substantially commensurate with the homestudy standards and
- 4 criteria established in California adoption regulations.

